Remarks

Claims 1-25 currently stand rejected and remain pending. No claims are amended herein. The Applicant respectfully traverses the rejection and requests allowance of claims 1-25.

Claim Rejection Under 35 U.S.C. § 103

Claims 1-25 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent Application Publication No. 2002/0198929 to Jones et al. (hereinafter "Jones") in view of Meyer, *Voice as a Commodity*, RCR Wireless News, v.20, 17 (April 23, 2001) (hereinafter "Meyer"). (Page 2 of the final Office action.) The Applicant respectfully disagrees as discussed hereinafter.

Independent system claim 1 is reproduced below, with emphasis supplied:

> 1. A system for utilizing a collective processing capability of a plurality of computers after the computers have been sold to purchasers by a vendor, the system comprising the steps of:
>
> *entering into a plurality of agreements, each of which is between the vendor and a different one of the purchasers, wherein, with respect to a specific one of the computers to be sold to said one of the purchasers, the vendor retains a right to use said specific one after the sale thereof;*
>
> *conveying, subject to said agreements, the plurality of the computers to said purchasers;*
>
> interconnecting the computers via the Internet to create a network; and
>
> using the network to provide a service that provides the vendor with a commercial benefit.

Generally, Jones discloses a "system to provide incentives for client machines to contribute resources to a peer-to-peer computer network. When a server receives requests for information from a plurality of client machines, it determines if the client machines are contributing resources to peer-to-peer sharing. When answering requests, clients which contribute resources to peer-to-peer sharing are given priority over clients which do not contribute." (Paragraph [0009]. Please see also paragraphs [0028] and [0029].) In addition, among those client machines contributing to the peer-to-peer sharing, higher priority is granted to requests from client machines that contribute more resources to the sharing technology. (Please see paragraphs [0009], [0030] and [0031].)

The Applicant traverses the rejections for a number of reasons, each of which is discussed separately as follows.

Replacement of Terms Relating to Vendors and Purchasers, and Agreement Therebetween

The final Office action indicates that Jones teaches the entering of agreements between a *master server* and each of a number of *client computers*. (Page 2 of the final Office action.) Thus, the final Office action appears to equate the master server and the client computers with the vendor and the purchasers of claim 1, respectively. (Please see page 2 of the final Office action, in which the language of claim 1 is modified to replace the term "vendor" with "master server," and the word "purchaser" with "client computer.") As a result, the final Office action indicates that *an agreement is entered into between a master server and each of the client computers*. However, claim 1 does not employ such a provision, as claim 1 does not specifically recite agreements between machines such as servers and other computers, but instead provides for agreements between *vendors* and *purchasers*. Further, the Applicant contends that Jones does not teach or suggest the presence of any kind of agreement. This assertion is supported by the lack of the terms "agree," "agreement," and "contract" in Jones. Instead, the master server of Jones provides preferred access to files by client computers that currently contribute resources to peer-to-peer sharing.

In its Response to Arguments section, the final Office action asserts that "Jones teaches that clients need[] to agree to adopt peer-to-peer sharing technology in order to permit a master server to use said clients' computers[']' resources (see paragraphs 29-31). Therefore, contrary to Applicant's argument, Jones clients' computers need to permit or agree that the master to conditionally utilize said clients computers...." (Page 10 of the final Office action.) The Application respectfully disagrees. The client computers of Jones do not need to enter into any kind of *agreement* prior to receive preferential treatment from the master server when accessing files. Instead, the master server of Jones requires *action* on the part of the client computer, the action being the actual contribution of resources for peer-to-peer sharing. Until such an action is undertaken, the client computer will not receive such preferential treatment. In other words, the master server does not require any kind of prior agreement with the client computer, but instead demands a specific type of *performance* from the client computer.

Further, since claim 1 indicates that the computers are conveyed to the purchasers subject

to the agreements, the agreements must be made at least by the time of the conveyance. However, since Jones does not mention the sale or other conveyance of the client computers, a conveyance that is in place at least at the time of sale is also not disclosed therein.

In light of the foregoing, Jones does not teach or suggest agreements between a vendor and each of a number of purchasers, especially agreements that are in effect at the time of conveyance. The Applicant thus respectfully asserts that claim 1 is allowable for at least this reason, and such indication is respectfully requested.

Vendor Retention of a Right to Use the Computer after Conveyance Subject to an Agreement Between the Vendor and a Purchaser

The final Office action further indicates on page 3 as shown below, with emphasis supplied:

> Jones fails to teach that vendors sell the computers to the client if the vendor retains a right to use said specific one after the sale thereof and conveying, subject to said agreements, the plurality of the computers to said purchasers. However, *Official Notice is taken that it is old and well known in the promotion art that vendors give product[] discounts to clients, when said clients abide to said vendor[']s[] rules.* Voice as a commodity teaches that wireless Internet Service providers provide service plans that appeal to the consumer market including discounted phone offers with a two-year contract agreement (see Voice as a commodity paragraphs 6 and 11). Therefore, it would have been obvious to a person of ordinary skill in the art at the time that the application was made[] to know that *Internet service providers would use the Jones[] system to sell computers to clients at discounts,* as taught by Voice as a commodity[,] *if said clients agreed to share the resources of their computers with said service providers* in order that said service provider[']s master servers do not become overwhelmed by the client requests as the master server[']s files would be shared in a peer-to-peer network with the other client machines."

Further, the final Office action indicates that "Voice as a commodity was the reference cited for teaching a vendor that sells, leases or otherwise conveys a device to a purchaser. With that agreement, said Service providers retain a right to use their network on said purchaser device." (Page 10 of the final Office action.)

The Applicant respectfully disagrees. While offers by vendors of product discounts are typical in exchange for certain specific actions of the purchaser around the time of conveyance, such as purchasing the item before a specified offer expiration date, or submitting a vendor-

supplied coupon or mail-in rebate form in conjunction with the purchase, a discount provided by a vendor in the sale of a computer to a purchaser in exchange for the vendor retaining a right to use the system *after the sale* is *vastly different* from the offering of a coupon or rebate. Thus, taking Official Notice of generalized product discounts has no connection to, and thus cannot make obvious, a vendor retaining a right to use a sold computer or similar device, which is *neither old nor well-known.*

Similarly, while Meyer (Voice of a commodity) discloses wireless carriers offering discounted phones or a year of free calls with a two-year contract agreement, such an agreement is not struck in exchange for the right of the wireless carrier to use the phone after the sale or conveyance of the phone to the purchaser. Thus, the contract agreement set forth in Meyer does not teach or suggest a vendor retaining a right to use a sold computer or similar device.

Combining Jones and Meyer

Further, the Applicant respectfully contends no motivation exists to combine Jones and Meyer. For example, Jones would not require issuing a computer sales discount since the system described therein *already provides the client an incentive* for sharing peer-to-peer technology. As described above, the incentive provided by a master server to a set of clients is *a higher priority in processing client information requests* if the client contributes resources for peer-to-peer sharing. Thus, the Applicant contends that no motivation exists to combine Meyer with Jones, and such indication is respectfully requested.

Further, presuming the presence of an actual agreement in Jones (an assertion with which the Applicant does not agree, as discussed above), both (1) a promise of preferred access to files in a master server in exchange contribution of resources to a peer-to-peer sharing arrangement (from Jones), and (2) a phone discount given in exchange for a two-year contract agreement, or other typical incentives provided by wireless carriers (from Meyer), are inherently different from (3) an agreement in place at the time of conveyance of a computer that provides the vendor a right to use the computer after conveyance, as provided for in claim 1. Thus, the Applicant respectfully asserts that combining Jones with either Meyer or the Official Notice indicated in the final Office action to yield the agreement of claim 1 requires impermissible hindsight.

Therefore, the Applicant respectfully contends for at least these reasons that no combination of Jones, Meyer, and Official Notice teaches or suggests an agreement in place at

conveyance which allows vendor retention of a right to use the conveyed computer, as provided for in claim 1, and such indication is respectfully requested.

Thus, based on the foregoing, the Applicant contends that claim 1 is allowable in view of Jones, and such indication is respectfully requested.

Claims 14 and 21

System claims 14 and 21 include provisions similar to those of claim 1 relating to an agreement to a vendor's right to use a computer after its sale to a purchaser. Thus, the Applicant asserts that claims 14 and 21 are allowable for at least the same reasons as those presented above in support of claim 1, and such indication is respectfully requested.

In addition, claims 14 and 21 include an operation for repeating the agreement and conveyance steps until a predetermined minimum number of computers or devices have been sold. While the final Office action recognizes that Jones does not teach or suggest this particular operation, *no indication is made as to whether any other potential reference teaches or suggests this limitation*. (Please see pages 6, 7, and 9 of the final Office action.) Instead, the final Office action indicates that this limitation is addressed in the rejection of claim 1. (Id.) However, claim 1 does not include such a limitation. Thus, the Applicant respectfully contends that Jones does not teach or suggest this specific provision. Therefore, the Applicant respectfully asserts that claims 14 and 21 are allowable for at least this additional reason, and such indication is respectfully requested.

Claims 2-13, 15-20, and 22-25

Claims 2-13 depend from independent claim 1, claims 15-20 depend from independent claim 14, and claims 22-25 depend from independent claim 21, thus incorporating the provisions of their associated independent claims. Thus, the Applicant asserts that claims 2-13, 15-20, and 22-25 are allowable for at least the reasons provided above in support of claims 1, 14, and 21, and such indication is respectfully requested.

Therefore, in light of the above, the Applicant respectfully requests withdrawal of the 35 U.S.C. § 103 rejection of claims 1-25.

Conclusion

Based on the above remarks, the Applicant submits that claims 1-25 are allowable. Other reasons in favor of patentability exist, but such reasons are omitted in the interests of clarity and brevity. The Applicant thus respectfully requests allowance of claims 1-25.

The Applicant believes no fees are due with respect to this filing. However, should the Office determine additional fees are necessary, the Office is hereby authorized to charge Deposit Account No. 08-2025 accordingly.

Respectfully submitted,

Date:November 26, 2007

/Kyle J. Way/

SIGNATURE OF PRACTITIONER
Kyle J. Way, Reg. No. 45,549
Setter Roche LLP
Telephone: (720) 562-2280
E-mail: kyle@setterroche.com

Correspondence address:

CUSTOMER NO. 022879

HEWLETT-PACKARD COMPANY
Intellectual Property Administration
P.O. Box 272400
Fort Collins, CO 80527-2400